

STATE OF MICHIGAN
MACOMB COUNTY CIRCUIT COURT

CHARLES CLARK,
Plaintiff

vs.

05-1597 NP

GENERAL MOTORS CORPORATION
and DELPHI CORPORATION,
Defendants

Hon. Ed Servitto

ALAN B. POSNER P27981
Kelman Loria, PLLC
Attorneys for Plaintiff
1420
660 Woodward Ave., Suite 2300
Detroit, MI 48226-3588
(313) 961-7363 ext. 229
Fax: (313) 961-8875

RECEIVED

JUL 1 2 2005

CARMELLA SABAUGH
MACOMB COUNTY CLERK

FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiff complains that:

1. Plaintiff is a resident of Oakland County.
2. Defendants are corporations whose principal place of business is the State of Michigan, both of whom at all times pertinent have done business in Macomb County.
3. The amount in controversy, excluding interest, costs, and attorney fees, exceeds \$25,000.
4. On July 24, 2002, Plaintiff suffered an amputation of a portion of his left hand while in the course of his employment with ACC in Sterling Heights in Macomb County.
5. On that date, Plaintiff was employed at a workstation along a bonder carousel, believed to be designated by the employer as Bonder #4.
6. On that date, a tool used by Plaintiff for the purpose of removing poorly seated parts became stuck in a fixture of the machine.

7. At that time, it became necessary for Plaintiff to free the tool. In doing so, Plaintiff's left hand inadvertently came into contact with two closing platens on the carousel, which immediately crushed and burned his hand.

8. The bonder carousel was negligently and inadequately guarded because the protective fence was not located so as to prevent inadvertent contact by the operator with the platens as they were in the process of closing.

9. Upon information and belief, Defendant General Motors designed this carousel in 1963, specifying the location/placement of the protective fencing, and retained possession of it in its Delphi division until Delphi became an independent corporation.

Thereafter, in early 2002, Delphi sold this bonder carousel to Plaintiff's employer, at which time it left the control of Defendant.

10. At all times pertinent, Defendants had a duty of reasonable care to foreseeable users of the product, including Plaintiff.

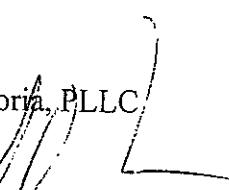
11. Defendants breached their duty and were negligent in failing to guard adequately the pinch point and in otherwise failing to exercise reasonable care under the circumstances.

12. As a proximate result of Defendants' negligence, Plaintiff suffered an amputation of much of his left hand, as well as shock and fright, great pain and suffering, lost enjoyment of life, mental anguish, emotional distress, loss of wages and earning capacity, and he has incurred expenses for medical care.

Plaintiff demands judgment for whatever amount exceeding \$25,000 Plaintiff is found to be entitled, plus interest, costs, and attorney fees.

PLAINTIFF DEMANDS TRIAL BY JURY

Kelman Loria, PLLC

By: 

Alan B. Posner
660 Woodward Ave., Suite 2300
Detroit, MI 48226
(313) 961-7363 Ext. #229

July 12, 2005

KELMAN LORIA, PLLC
1420 FIRST NATIONAL BUILDING
660 WOODWARD AVENUE, SUITE 1420
DETROIT, MICHIGAN 48226-3588
TELEPHONE: (313) 961-7363 FAX: (313) 961-8875
11:46:19 7/12/2005